



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

APR 24 1995

Mr. Tom Beier
Environmental Manager
Certainteed Corporation
200 Certainteed Road
Oxford, North Carolina 27565

Dear Mr. Beier:

As discussed in your telephone conversation with Mr. Brian Palmer of Radian Corporation (Radian), a visit to your Oxford, North Carolina facility is scheduled for May 2, 1995. This letter is to confirm the visit by the U.S. Environmental Protection Agency (EPA). Mr. Juan E. Santiago of the EPA, Mr. Brian Palmer, Mr. Eric Goehl, and Ms. Mary Lalley of Radian will be arriving at the plant at 9:00 a.m., as agreed in your telephone conversation. The purpose of the visit is to gather information and become familiar with the asphalt roofing production operations at your facility.

The EPA is required by the 1990 Clean Air Act Amendments (the Act), as amended 1990, to regulate categories of major sources of the 189 hazardous air pollutants (HAP's) listed in section 112(b) of the Act. A preliminary list of major sources was listed in the Federal Register on June 21, 1991. The initial list of major sources, required by section 112(c)(1) of the Act, was published in the Federal Register on July 16, 1992. The asphalt roofing manufacturing industry was on the preliminary list and on the initial list. Therefore, the EPA is gathering information to assess the extent of HAP emissions and the performance of control technologies on these HAP's within the asphalt roofing manufacturing industry. To use the EPA and industry time efficiently in gathering support data, the EPA must visit a number of facilities that represent typical asphalt roofing production facilities and that use control technologies that are potentially suitable for control of HAP's.

The types of information we would like to discuss with you during the site visit include the following:

1. Description of the plant itself--size, hours of operation, layout of production lines, types of products, and production rates;
2. Detailed descriptions of the asphalt processing and roofing manufacturing process, including the asphalt blowing stills and the asphalt saturators and coaters;
3. Descriptions of any control devices used to limit or destroy air emissions from the processing or manufacturing equipment;
4. Results of any emission test or workplace monitoring for HAP's or other air pollutants; and
5. Capital and annualized costs for installing and operating emissions control devices.

If you believe that disclosure of the information we request would reveal a trade secret, you should clearly identify such information as discussed in Enclosure 1. Any information subsequently determined to constitute a trade secret will be protected under 18 U.S.C. 1905. If no claim of confidentiality accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice (40 CFR Part 2.2043, September 1, 1976). Because section 114(c) of the Act exempts emissions data from claims of confidentiality, the emissions data you provide may be made available to the public. A clarification of what the EPA considers emissions data is contained in Enclosure 2.

As noted in Enclosure 3, we have designated Radian as an authorized representative of the Agency. Therefore, Radian has the rights discussed above and in Enclosure 1. As an authorized representative of the EPA, Radian is subject to the provisions of 42 U.S.C. 7414(c) respecting confidentiality of methods or processes entitled to protection as trade secrets. Radian's contract with EPA is No. 68-D1-0117.

Enclosure 4 summarizes the EPA's policies and procedures for handling privileged information and describes the EPA contractor commitments and procedures for use of confidential materials. It is the EPA's policy that compliance by an authorized

representative with the requirements detailed in Enclosure 3 provides sufficient protection for the rights of submitters of privileged information.

The following policies concerning liability should also be of interest to you:

1. If a Federal employee is injured in the course of his employment, he has compensation coverage from the Government under the Federal Employees Compensation Act (5 U.S.C. 8108 et seq.); and

2. If, due to the employee's negligence, property damage or personal injury to third parties occurs, the Federal Tort Claim Act (28 U.S.C. 1346) provides a means of fixing any liability upon the Federal Government.

The office of General Counsel has informed the Agency that a firm may not condition the EPA's "right of entry" upon consent to a waiver of liability and has instructed employees not to sign such waivers. If you have any questions regarding this refusal, please contact Mr. Donnell L. Nantkes, Office of General Counsel, at (202) 260-4556.

If there are any questions regarding this confirmation, please contact Mr. Juan E. Santiago of the EPA at (919) 541-1084.

Sincerely,



James U. Crowder, Group Leader
Minerals and Inorganic Chemicals Group
Emission Standards Division

4 Enclosures

ENCLOSURE 1

EPA's Information Gathering Authority Under Section 114 of the Clean Air Act

Under Section 114 of the Act (42 U.S.C. 7414), Congress has given the U. S. Environmental Protection Agency broad authority to secure information needed "(a) for the purpose (i) of developing or assisting in the development of any implementation plan under Section 110 or 111(d), any standard of performance under Section 111, or any emission standard under Section 112 (ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or (iii) carrying out any provision of this Act." Among other things, Section 114 authorizes EPA to make inspections, conduct tests, examine records, and require owners or operators of emission sources to submit information reasonably required for the purpose of developing such standards. In addition, the EPA Office of General Counsel has interpreted Section 114 to include authority to photograph or require submission of photographs of pertinent equipment, emissions, or both.

Under Section 114, EPA is empowered to obtain information described by that section even if you consider it to be confidential. You may, however, request that EPA treat such information as confidential. Information obtained under Section 114 and covered by such a request will ordinarily be released to the public only if EPA determines that the information is not entitled to confidential treatment.* Procedures to be used for making confidentiality determinations, substantive criteria to be used in such determinations, and special rules governing information obtained under Section 114 are set forth in 40 CFR Part 2 published in the Federal Register on September 1, 1976 (40 FR 36902).

*Section 114 requires public availability of all emission data and authorizes disclosure of confidential information in certain circumstances. See 40 FR 36902 - 36912 (September 1, 1976).

Pursuant to §2.204(a) of EPA's Freedom of Information Act (FOIA) regulation, in the event a request is received, or it is determined that a request is likely to be received, or EPA desires to determine whether business information in its possession is entitled to confidential treatment even though no request for release of the information has been received, please be advised that EPA will seek, at that time, the following information to support your claim as required by §2.204(e)(4) of EPA's FOIA regulations:

1. Measures taken by your company to guard against undesired disclosure of the information to others;
2. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
3. Pertinent confidentiality determinations, if any, by EPA or other Federal agencies, and a copy of any such determinations, or reference to it, if available; and
4. Whether your company asserts that disclosure of the information would be likely to result in substantial harmful effects on the business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

Dated: February 14, 1991.
 Paul Lapsley,
 Director, Regulatory Management Division.
 [FR Doc. 91-4113 Filed 2-20-91; 8:45 am]
 BILLING CODE 4550-20-M

[AD-FRL-3908-3]

Disclosure of Emission Data Claimed as Confidential Under Sections 110 and 114(c) of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of policy on public release of certain emission data submitted under sections 110 and 114(c) of the Clean Air Act (CAA).

SUMMARY: Section 114(c) of the CAA excludes emission data from the general definition of trade secret information. Certain classes of data submitted to the EPA under sections 110 and 114(a) of the CAA are emission data, and, as such, cannot be withheld from disclosure as confidential pursuant to section 1905 of title 18 of the United States Code. This notice clarifies EPA's current policy, and solicits comment regarding that policy and categories of data which it considers excluded from a trade secret definition.

DATES: Written comments pertaining to this notice are requested by April 22, 1991.

ADDRESSES: Submit comments to: Nancy D. Riley, U.S. Environmental Protection Agency, Emission Standards Division, Pollutant Assessment Branch (MD-13), Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Timothy Mohin (telephone: (919) 541-5349 commercial/FTS 829-5349) or Karen Blanchard (telephone: (919) 541-5503 commercial/FTS 829-5503), Pollutant Assessment Branch (MD-13), Emission Standards Division; or Thomas Rosendahl (telephone: (919) 541-5404 commercial/FTS 829-5404), National Air Data Branch (MD-14), Technical Support Division; U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The EPA routinely uses the authority of sections 110 and 114(a) of the CAA to gather technical information from industries involved in operations that lead to emission of pollutants to the ambient air. This information has been used, among other things, to better characterize emitting facilities and to evaluate the need for and impacts of potential regulation.

Information requests under sections 110 and 114(a) of the CAA typically include questions on uncontrolled and

controlled emission rates and emission parameters of the pollutant or group of pollutants of concern. The respondents sometimes claim that its response constitutes trade secret information, and thus, should be treated as confidential. Claims of confidentiality may be made under section 114(c) of the CAA, which states: "... upon a showing satisfactory to the Administrator by any person that records, reports, or information, or a particular part thereof, (other than emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such ... confidential in accordance with the purposes of section 1905 of title 18 of the United States Code ...". If the Administrator so determines, the information is not disclosable to the public.

However, section 114(c) of the CAA provides that information claimed to be a trade secret but which constitutes emission data may not be withheld as confidential. Although typically the EPA evaluates whether information constitutes emission data on a case-by-case basis, it believes that some kinds of data will always constitute emission data within the meaning of section 114(c). The purpose of this notice is to describe, without attempting to be comprehensive, that information which the EPA generally considers to be emission data, and which cannot qualify as confidential under either section 114(c) or section 110 (as set forth in 40 CFR 51.321, 51.322 and 51.323) of the CAA. The EPA is issuing this notice to clarify its policy and procedures, to facilitate the use of these data in automated data systems and computer-based simulation models, and to expedite processing of claims for confidentiality or requests for disclosure.

The EPA presently determines that data submitted to it as emission data does not qualify as confidential if it meets the following definition under 40 CFR 2.301(a)(2)(i):

a. Definitions. For the purpose of this section: (1) *Act* means the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (2)(i) *Emission data* means, with reference to any source of emission of any substance into the air—

(A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by

the source), or any combination of the foregoing;

(B) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emission which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source), or any combination of the foregoing;

(C) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

The table below lists the specific data fields which the EPA presently considers to constitute emission data and provides a brief description of what each data field describes. The descriptions are intended to provide general information. This list is not exhaustive and, therefore, other data might be found, in a proper case, to constitute emission data.

Emission Data Fields

Facility Identification: The following data fields are needed to establish the identity and location of emission sources. This shall also include a description or an identifier of the device, installation, or operation constituting the source. These data are used to locate sources for dispersion evaluation and exposure modeling.

Plant Name and related point identifiers
 Address
 City
 County
 AQCR (Air Quality Control Region)
 MSA, PMSA, CMSA (Metropolitan Statistical Areas)
 State
 Zip Code
 Ownership and point of contact information
 Locational identifiers:
 Latitude & Longitude, or UTM Grid Coordinates
 SIC (Standard Industrial Classification)
 Emission point, device or operation description, information
 SCC (Source Classification Codes)

Emissions Parameters: The following data fields are needed to establish the characteristics of the emissions. This information is needed for the analyses of dispersion and potential control equipment.

Emission type
 (e.g., nature of emissions such as CO₂, particulate or a specific toxic compound, and origin of emissions such as process vents, storage tanks or equipment leaks)
 Emission rate

(e.g., the amount released to the atmosphere over time such as kg/yr or lbs/hr)

Release height
(e.g., height above ground level where the pollutant is emitted to the atmosphere)

Description of terrain and surrounding structures
(e.g., the size of the area associated with adjacent structures in square meters and terrain descriptions such as mountainous, urban, or rural)

Stack or vent diameter at point of emissions
(e.g., the inside diameter of vent at the point of emission to the atmosphere in meters)

Release velocity
(e.g., velocity of release in m/sec)

Release temperature
(e.g., temperature of release at point of release in degrees Kelvin)

Frequency of release
(e.g., how often a release occurs in events per year)

Duration of release
(e.g., the time associated with a release to the atmosphere)

Concentration
(e.g., the amount of an emission stream constituent relative to other stream constituents expressed as parts per million (ppm), volume percent, or weight percent)

Density of the emissions stream or average molecular weight
(e.g., density expressed as fraction or multiple of the density of air; molecular weight in g/g-mole)

Boiler or process design capacity
(e.g., the gross heating value of fuel input to a boiler at its maximum design rate)

Emission estimation method
(e.g., the method by which an emission estimate has been calculated such as material balance, source test, use of AP-42 emission factors, etc.)

Percent space heat
(e.g., the percent of fuel used for space heating)

Hourly maximum design rate:
(e.g., the greatest operating rate that would be expected for a source in a 1-hour period)

The EPA has determined that these data are emission data and releasable upon request. This determination applies to data currently held by EPA as well as to information submitted to EPA in the future. Future requests for information under sections 110 and 114 of the CAA will indicate that these emission data will not be held confidential. This determination applies only to the data listed in the table. Determinations will continue to be made on a case-by-case basis for data not specified in this generic determination.

After consideration of comments on this policy, a revised policy/determination may be published.

Dated: February 8, 1991.
Michael Shapiro,
Acting Assistant Administrator for Air and Radiation.
[FR Doc. 91-4114 Filed 2-20-91; 8:43 am]
BILLING CODE 5500-60-M

[OPP-200000A; FRL-3879-4]

Request for Proposals; Research and Development on Antimicrobial Test Methodology and Statistical Support on Experimental Design and Data Analysis; Extension of Proposal Deadline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of proposal deadline.

SUMMARY: This notice announces the extension of deadline for a Request for Proposal that published in the Federal Register of December 8, 1990. The Request for Proposal was published to solicit proposals which will result in the development of a reproducible, reliable, and statistically valid sporidial test method used to evaluate the efficacy of antimicrobial products bearing sterilizer or sporidial claims. In addition, proposals for statistical support to independently evaluate the experimental designs of projects and to analyze results from on-going test methodology research were also solicited.

DATES: The new deadline for proposal submission to the Agency is February 28, 1991.

ADDRESSES: The original and eight copies must be sent to: Grants Operations Branch (PM-216F), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. One copy of the original must be sent to: Susan Parker, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., 20460. Application Kits may be obtained from: Grants Operations Branch (PM-216F), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, or call: (202) 382-5266.

FOR FURTHER INFORMATION CONTACT: Susan Parker, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Phone number: (703) 557-2141.

SUPPLEMENTARY INFORMATION: EPA issued a Request for Proposal in the Federal Register of December 8, 1990 (53 FR 50383). The original submission deadline was January 30, 1991; the new deadline for proposal submission is extended to February 28, 1991.

Dated: February 12, 1991.
Douglas D. Camp,
Director, Office of Pesticide Programs.
[FR Doc. 91-4120 Filed 2-20-91; 8:43 am]
BILLING CODE 5500-60-P

[OPP-180841; FRL-3877-6]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the seven States as listed below and one by the United States Department of Agriculture. Four crisis exemptions were initiated, two by the Florida Department of Consumer Services and two by the United States Department of Agriculture. These exemptions, issued during the months of November and December, except for the one in October, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of chlorothalonil on mushrooms to control verticillium diseases: November 14, 1990, to November 13, 1991. (Susan Stanton)
2. California Department of Food and Agriculture for the use of avermectin B on celery to control serpentine leafminers: November 19, 1990, to November 18, 1991. (Libby Pemberton)
3. California Department of Food and Agriculture for the use of methyl bromide on carrots to control nematodes: December 21, 1990, to December 20, 1991. (Libby Pemberton)
4. Idaho Department of Agriculture for the use of pendimethalin on spearmint and peppermint to control Kochia and

ENCLOSURE 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

DESIGNATION OF AUTHORIZED REPRESENTATIVE
FOR STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES
(SECTION 111) AND SOLID WASTE COMBUSTION (SECTION 129),
NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS
(SECTION 112), AND FEDERAL OZONE MEASURES (SECTION 183)

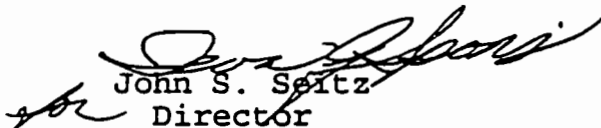
Under contract 68D10117, Radian Corporation is hereby designated an Authorized Representative of the Administrator of the United States Environmental Protection Agency for the purpose of assisting in the development of national emission standards for hazardous air pollutants under 42 U.S.C. 7412, standards of performance under 42 U.S.C. 7411, and Federal ozone measures under 42 U.S.C. 7511 (b).

This designation is made pursuant to the Clean Air Act, 42 U.S.C. 7414. The United States Code provides that, upon presentation of this credential, the Authorized Representative named herein: (1) shall have a right of entry to, upon, or through any premises in which an emission source is located or in which records required to be maintained under 42 U.S.C. 7414 (a) (1), are located, and (2) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under 42 U.S.C. 7414 (a) (1), and sample any emissions that the owner or operator of such source is required to sample.

Authorized Representatives of the Administrator are subject to the provisions of 42 U.S.C. 7414 (c) respecting confidentiality of methods or processes entitled to protection as trade secrets, as implemented by 40 CFR 2.301 (h) (41 FR 36912, September 1, 1976).

Date: **AUG 12 1994**

Designation Expires: September 30, 1995


John S. Seitz
Director
Office of Air Quality Planning
and Standards

ENCLOSURE 4

U.S. Environmental Protection Agency
Office of Air Quality Planning and Standards (OAQPS)
Emission Standards Division (ESD)

January 1989

Summary of ESD/OAQPS
Procedures for Safeguarding Confidential Business Information (CBI)

1. Purpose

This memorandum describes Agency policy and procedures pertaining to the handling and safeguarding of information that may be entitled to confidential treatment for reasons of business confidentiality by the ESD, OAQPS, Office of Air and Radiation, U.S. Environmental Protection Agency.

2. Other Applicable Documents:

- a. Clean Air Act as amended.
- b. 40 CFR, Chapter I, Part 2, Subpart B - Confidentiality of Business Information.
- c. EPA Security Manual, Part II, Chapters 8 and 9.
- d. Clean Air Act Confidential Business Information Security Manual for Federal Employees.
- e. Clean Air Act Confidential Business Information Security Manual for Contractors.

3. Exception:

This document was prepared as a summary of data gathering and handling procedures used by the ESD, OAQPS, EPA. Nothing in this document shall be construed as superseding or being in conflict with any applicable regulations, statutes, or policies to which EPA is subject.

4. Definition:

Confidential Business Information - Information claimed by the provider to be confidential. This information may be identified with such titles as trade secret, secret, administrative secret, company secret, secret proprietary, privileged, administrative confidential, company confidential, confidential proprietary, or proprietary. NOTE: These markings should not be confused with the classification markings of National Security information identified in Executive Order 11652.

5. Background

Section 114(c) of the Clean Air Act as amended reads as follows:

"Any records, reports, or information obtained under subsection (a) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, (other than emission data) to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of Section 1905 of Title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act."

The treatment of CBI by the U.S. EPA, including data obtained under Section 114 of the Clean Air Act, is governed by Title 40, Part 2, of the Code of Federal Regulations. These regulations require EPA offices to include a notice with each request for information to inform the business of: (1) its right to assert a claim of confidentiality covering part or all of the information, (2) the method for asserting a claim, and (3) the effect of failure to assert a claim at time of submission. In addition, the regulations: (1) set forth procedures for the safeguarding of confidential information; (2) contain provisions for providing confidential information to authorized representatives; (3) contain provisions for the release of information to the Congress, Comptroller General, other Federal agencies, State and local governments, and Courts; (4) permit the disclosure of information within EPA to employees with an official need for the information; and (5) prohibit wrongful use of such information and cite penalties for wrongful disclosure. Further, the regulations contain the Agency's basic rule concerning the treatment of requests for information under the Freedom of Information Act (5 U.S.C. 552).

6. Procedures:

a. Requests for Information

Each request originating in the ESD for information made under the provisions of Section 114(a) is signed by the Division Director. The request includes ESD's standard enclosure "EPA's Information Gathering Authority Under Section 114 of the Clean Air Act," which was designed to meet the requirement of 40 CFR Part 2 discussed above.

b. Receipt of Confidential Business Information

Upon receipt of information for which confidential treatment has been requested, the Office of the Director (OD) directs the logging of the material and the establishment of a permanent file. If confidential treatment is requested, but is not specifically marked, the material will be stamped "Subject to Confidentiality Claim." If part of the material is claimed to be confidential, that portion is marked "Subject to Confidentiality Claim." In compliance with Sections 2.204 and 2.208 of 40 CFR Part 2, the Branch Chief responsible for the requested information reviews the information to determine whether it is likely to be confidential in contrast to being available in the open literature, whether it is emission data, and whether it likely provides its holder with a competitive advantage. If the information is clearly not confidential, the Branch Chief prepares a letter for signature of the Division Director, ESD, to notify the business of this finding. If the information is possibly confidential, the Branch Chief sends a memorandum to inform the OD, ESD, of this finding, gives a brief description of the material (what it is, how many pages, etc.), identifies it with the correct ESD project number, and lists those persons who are authorized to have access to the information. The information and memorandum are hand carried to the OD and placed in the CBI files with the material. A record of who will see the information (Attachment A) is also filed with the folder containing the information. If CBI is received from the owner via an authorized representative or a third party, the same procedure is followed, with the addition of clearly identifying the information and its source. By regulation, information for which confidential treatment is requested must be so marked or designated by the submitter. The EPA takes additional measures to ensure that the proprietary designation is uniformly indicated and immediately observable. All unmarked or undesignated information (except as noted below) is freely releasable.

c. Storage of Confidential Business Information

Folders, documents, or material containing CBI (as defined) shall be secured, at a minimum, in a combination-locked cabinet. Normal ESD procedure is to secure this information in a cabinet equipped with a security bar and locked using a four-way, changeable combination padlock. In addition, the entrance door to the CBI storage room is equipped with a changeable combination simplex lock. The locked files are under the control of the OD.

Knowledge of the combinations of the locking devices is limited to the Document Control Officer (DCO) and the minimum number of persons required to effectively maintain normal business operations. Records of the locking device combination are stored elsewhere in conformance with the requirements of the EPA Security Manual.

Combinations of the locks are normally changed whenever a person with knowledge of the combinations is transferred, terminates employment, no longer authorized access, or whenever the possibility exists that the combinations may have been subject to compromise.

Files may be checked out upon confirmation that the requesting person is authorized to receive the information. All confidential files must be returned no later than 4:00 p.m. on the same day they are removed. The intended user must sign the CBI Control Record when the file is checked out.

The individual who signs out a confidential file is responsible for its safekeeping. The file must not be left unattended. The information must not be disclosed to any non-authorized personnel.

Storage procedures for CBI by an authorized representative of EPA (see Section d. below) must be, at a minimum, as secure as those established for EPA offices within OAQPS. Whenever CBI is removed from the EPA files to be transmitted to an authorized representative, a memorandum is placed in the file indicating what information was transmitted, the date, and the recipient. The authorized representative returns a signed receipt to the DCO.

d. Access to Confidential Business Information

Only authorized EPA employees may open and distribute CBI.

Only employees who require and are authorized access to CBI in the performance of their official duties are permitted to review documents and, upon receiving a confidential document, must sign and date the form shown in Attachment A to certify their access to the document.

The CBI files are controlled by the OD, ESD, and maintained by a contractor cleared for access as an authorized representative. Access to the information is limited to those persons having a need to know in performing their official duties.

The ESD Branch having primary interest in the CBI provides a memorandum for the record designating those personnel who are authorized to use CBI in a program under which CBI can be requested. No person is automatically entitled to access based solely on grade, position, or security clearance. The names of persons granted access to CBI are placed on the Clean Air Act CBI access list, which indicates the specific CBI each person is permitted to see. The access list is reviewed and updated periodically.

Companies under contract to perform work for EPA may be designated authorized representatives of EPA if such designation is necessary in order for the contractor to carry out the work required by the contract. As authorized representatives,

contractors may be granted access to CBI by the Director, ESD. The following conditions apply when it has been determined that disclosure is necessary:

(1) the contractor designated as a representative and its employees (a) may use such confidential information only for the purpose of carrying out the work required, (b) must refrain from disclosing the information to anyone other than EPA without having received from EPA prior written approval of each affected business or of an EPA legal office, and (c) must return to EPA all copies of the information (and any abstracts or excerpts therefrom) upon request or whenever the information is no longer required for the performance of the work.

(2) The authorized contractor designated as a representative must obtain a written agreement from each of its employees who will have access to the information. A copy of each employee agreement (Attachment B) must be furnished to EPA before access is permitted.

(3) The contractor designated as an authorized representative must agree that the conditions in the contract concerning the use and disclosure of CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

Information may be released to or accessed by EPA employees other than OAQPS employees only upon approval of the Director, ESD.

Requests for CBI from other Federal agencies, Congress, the Comptroller General, Courts, etc., are processed by the OD, ESD, in accordance with 40 CFR 2, Subpart B.

Requests under the Freedom of Information Act are handled in accordance with 40 CFR 2, Subpart A. The ESD Freedom of Information Coordinator must be consulted prior to responding to any request for information if a claim of confidentiality has been asserted or if there is reason to believe that a claim might be made if the business knew release was intended.

e. Use and Disclosure of Confidential Business Information

The CBI as defined may not be used in publications, supporting documents, memoranda, etc., that become a part of the public domain, except as provided for in 40 CFR 2 Subpart B.

The CBI may not be summarized without the approval of the Project Manager responsible for the CBI. Any authorized reproduction shall be provided by the CBI office staff. Further, all authorized reproductions must be introduced into the CBI control system and treated according to the same procedures applicable to the original confidential material.

The EPA generated documents or material, or extracts of information containing CBI, must be stamped "Subject to Confidentiality Claim" and a cover sheet must be attached to identify the material as CBI.

f. Handling of Other Information

Reports, memoranda, documents, etc., prepared by EPA or its authorized representatives are not normally circulated outside EPA for comment or review prior to publication except in such cases as described above (6.d.3) wherein CBI is expressly included. However, because industrial-data-gathering visits, plant inspections, and source testing can involve inadvertent receipt of CBI, it is the policy of ESD to protect all parties involved in the following manner.

Prior to or at the inception of a plant inspection, data-gathering visit, or source test, EPA or its authorized representative discusses with a responsible industry official the information sought, how it is to be used, and how it is to be protected. A copy of this summary is usually provided to the industry official being consulted.

Following an inspection, visit, or test, a trip report is prepared to include, as practicable, all information received by EPA or its authorized representative during the visit or test. The report may be prepared by either EPA or its authorized representative. The draft of that report is clearly identified, on an attached, colored cover sheet as "Confidential Pending Determination." A second copy of the draft trip report is forwarded by EPA to the responsible industry official for review. The responsible industry official is requested by cover letter to review the report, clearly mark any information considered to be confidential, and return the marked up-report to the responsible EPA employee within 2 weeks of receipt. The original draft is kept in the CBI "pending" file until the marked-up copy is returned by the business firm.

When the reviewed copy of the report, as marked by the responsible plant official, is received by EPA, information designated confidential is placed in the CBI files as described above. The original draft of the trip report is edited to delete the confidential information and to accommodate technical changes, and the trip report is issued.

2 Attachments

CONTROL NUMBER:

DOCUMENT AUTHOR:

INITIALS:

DATE _____

CAA Form 1

Attachment 8

I. AUTHORIZATION FOR ACCESS TO CAA CBI FOR EPA CONTRACTOR EMPLOYEES		
FULL NAME		POSITION
SSN		CONTRACTOR
<p>It is the responsibility of each Authorizing Official to ensure that the employees under his/her supervision who require access to CAA CBI:</p> <ol style="list-style-type: none"> 1. Sign the Confidentiality Agreement for EPA Contractor Employees 2. Are fully informed regarding their security responsibilities for CAA CBI. 3. Obtain access only to that CAA CBI required to perform their official duties 		
SIGNATURE OF AUTHORIZING OFFICIAL	TELEPHONE NO.	DATE
TITLE	LOCATION	
II. CONFIDENTIALITY AGREEMENT FOR EPA CONTRACTOR EMPLOYEES		
<p>I understand that I will have access to certain Confidential Business Information submitted to EPA or its authorized representatives under the Clean Air Act (CAA). This access is granted in accordance with my official duties as an employee of an Environmental Protection Agency contractor.</p> <p>I understand that CAA CBI may not be disclosed except as authorized by CAA and Agency regulations. I understand that I may face criminal prosecution if I willfully disclose CBI to any person not authorized to receive it. In addition, I understand that I may be subject to disciplinary action for violation of this agreement with penalties ranging up to and including dismissal.</p> <p>I agree that I will treat any CAA CBI furnished to me as confidential and that I will follow the procedures set forth in the CAA Confidential Business Information Security Manual for Contractors.</p> <p>I have read and understand these procedures.</p>		
SIGNATURE	TELEPHONE NO.	DATE
III. HAVING COMPLETED REQUIRED TRAINING AND PASSED REQUIRED TEST, THE ABOVE-NAMED EMPLOYEE IS HEREBY AUTHORIZED TO HAVE ACCESS TO CAA CBI.		
SIGNATURE CBI COCO	TELEPHONE NO.	DATE